

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN EDWARD FOLAND,

Plaintiff,

-against-

1:22-CV-1158 (LEK/ML)

THE STATE OF NEW YORK, *et al.*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation issued by the Honorable Miroslav Lovric, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Dkt. No. 6 (“Report-Recommendation”). In the Report-Recommendation, Judge Lovric recommended that Plaintiff’s complaint be dismissed without prejudice for Plaintiff’s failure to pay the required filing fee or to obtain leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1). Id. at 2–3.

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Urena v. People of State of New York, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). Clear error “is present when upon review of the entire record, the court is left with the definite and firm conviction that a mistake has been committed.” Rivera v. Fed. Bureau of Prisons, 368 F. Supp. 3d 741, 744 (S.D.N.Y. 2019).

Given Plaintiff's *pro se* status, Judge Lovric afforded Plaintiff seventeen days to object to his Report-Recommendation. See R. & R. at 3 n.2 ("If you are proceeding *pro se* and served with this report, recommendation, and order by mail, three additional days will be added to the fourteen-day period, meaning that you have seventeen days from the date that the report, recommendation, and order was mailed to you to serve and file objections." (emphasis in original)). However, Plaintiff did not file any objections within the seventeen-day period. See Docket. Therefore, the Court reviews the Report-Recommendation for clear error. After carefully examining the record, the Court has determined that Judge Lovric's recommendation for dismissal evinces no clear error or manifest injustice.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 6) is **APPROVED and ADOPTED in its entirety**; and it is further


ORDERED, that Plaintiff's complaint (Dkt. No. 1) is **DISMISSED without prejudice**; and it is further

ORDERED, that if Plaintiff does not seek leave from the Court to file an amended complaint with either (1) the required filing fee, or (2) an application to proceed in forma pauperis, within **thirty (30) days** from the date of service of this Decision and Order, the Clerk of the Court shall close this action; and it is further

ORDERED, that the Clerk serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: April 25, 2023
Albany, New York



LAWRENCE E. KAHN
United States District Judge